

Appl. No. 10/565,394
Amendment dated February 18, 2009
Reply to Office Action of November 21, 2008

REMARKS

In the November 21, 2008 Office Action, claims 2, 3, 6-8, 10-12, 14-16, 21 and 22 stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the November 21, 2008 Office Action, Applicants have amended independent claims 2, 10 and 14 as indicated above. Applicants wish to thank the Examiner for the thorough examination of this application. Thus, claims 2, 3, 6-8, 10-12, 14-16, 21 and 22 are pending, with claims 2, 10 and 14 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Rejections - 35 U.S.C. § 103

In numbered paragraph 4 of the Office Action, claims 2, 3, 6-8, 10-12, 14-16, 21 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,415,603 to Nowka et al. (hereinafter "Nowka et al. patent") in view of U.S. Patent No. 5,232,989 to Hamada et al. (hereinafter "Hamada et al. patent"). In response, Applicants have amended independent claims 2, 10 and 14 as mentioned above.

More specifically, independent claims 2 and 10 now clearly recite that a dynamic damper is formed *between the upstream component and the downstream component* by virtue of the elastic characteristics and the mass, with the elastic characteristics of the flexible couplings being selected to optimize the resonant frequency of the dynamic damper *with respect to the mass of the intermediate component*. Independent claim 14 now clearly recites that the elastic characteristics of the flexible couplings is selected to optimize the resonant frequency of the vibration system *with respect to the mass of the intermediate*

component, with the vibration system being formed of the couplings and the intermediate component *between the upstream component and the downstream component*. Clearly this arrangement is *not* disclosed or suggested by the Nowka et al. patent, Hamada et al. patent or any other prior art of record.

Specifically, the Nowka et al. patent does *not* explicitly disclose a dynamic damper formed by virtue of the elastic characteristics and the mass, and *fails to* show the elastic characteristics of the flexible couplings being selected to optimize the resonant frequency of the dynamic damper, as acknowledged in the Office Action.

Furthermore, referring to col. 4, lines 22-25 of the Hamada et al. patent, the Hamada et al. patent merely discloses the auxiliary vibration system consisting of the rear portion 34, muffler supports 40, 42 and flexible joint 22. Specifically, referring to col. 3, lines 49-60, col. 4, lines 5-50 and the formula (1) of the Hamada et al. patent, the weight of the rear section 34 itself merely serves as a mass of the auxiliary vibration system. However, the Hamada et al. patent does *not* disclose or suggest that the spring constant of the flexible joint 22 is selected to optimize the resonant frequency of the dynamic damper with respect to the mass of the intermediate section 32.

Accordingly, *neither* the Nowka et al. patent *nor* the Hamada et al. patent discloses or suggests that a dynamic damper is formed *between the upstream component and the downstream component* by virtue of the elastic characteristics and the mass, with the elastic characteristics of the flexible couplings being selected to optimize the resonant frequency of the dynamic damper *with respect to the mass of the intermediate component*, as now recited in claims 2 and 10. Furthermore, *neither* the Nowka et al. patent *nor* the Hamada et al. patent discloses or suggests that the elastic characteristics of the flexible couplings is selected to optimize the resonant frequency of the vibration system *with respect to the mass of the*

intermediate component, with the vibration system being formed of the couplings and the intermediate component *between the upstream component and the downstream component*, as now recited in claim 14.

Moreover, even if one of ordinary skill in the art would modify the Nowka et al. patent to include the auxiliary vibration system of the Hamada et al. patent, the modification would merely include an auxiliary vibration system consisting of the muffler and tailpipe assembly 18 of the Nowka et al. patent as a mass, the isolators 62 and the first joint 30 of the Nowka et al. patent as spring members. However, there is *no apparent reason* for one of ordinary skill in the art to make the modification include the elastic characteristics of the flexible couplings (not numbered) being selected to optimize the resonant frequency of the dynamic damper with respect to the mass of the middle portion 34, and the dynamic damper being formed between the second exhaust manifold 26 and exhaust pipe 52.

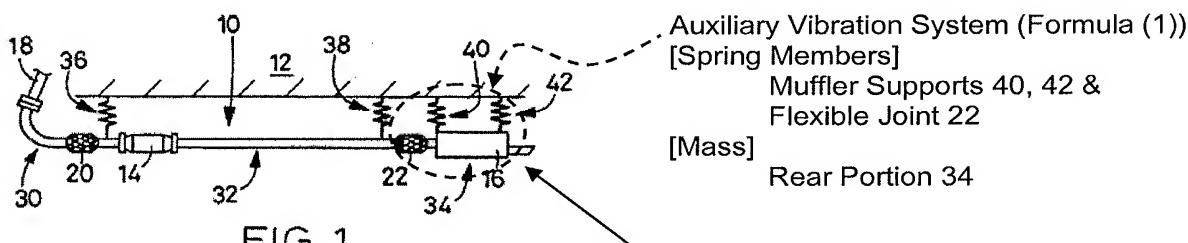
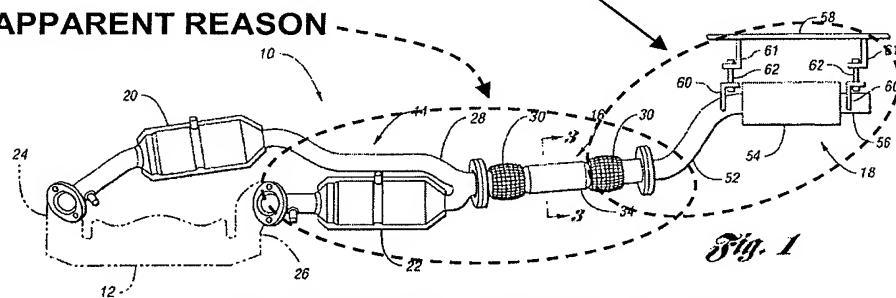


FIG. 1

Annotated Figure 1 of Hamada et al. patent

CORRESPONDING PARTS



Annotated Figure 1 of Nowka et al. patent

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Under U.S. patent law, the mere fact that the prior art can be modified does *not* make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some “apparent reason to combine the known elements in the fashion claimed.” Id. at 1741. The current record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicants' unique arrangement of an engine exhaust system for a vehicle.

Therefore, Applicants respectfully request that this rejection be withdrawn in view of the above comments and amendments.

Moreover, Applicants believe that dependent claims 3, 6-8, 11, 12, 15, 16, 21 and 22 are also allowable over the prior art of record in that they depend from independent claims 2, 10 and 14, and therefore are allowable for the reasons stated above. Also, dependent claims 3, 6-8, 11, 12, 15, 16, 21 and 22 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 2, 10 and 14, the prior art of record also fails to disclose or suggest the inventions as set forth in dependent claims 3, 6-8, 11, 12, 15, 16, 21 and 22.

Therefore, Applicants respectfully request that this rejection be withdrawn in view of the above comments and amendments.

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Conclusion

In view of the foregoing amendment and comments, Applicants respectfully assert that claims 2, 3, 6-8, 10-12, 14-16, 21 and 22 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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